

STATE OF NEW HAMPSHIRE AND THE TOWN OF NEW  
BOSTON, N. H.

JULY 1, 1952.—Committed to the Committee of the Whole House and ordered  
to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the  
following

REPORT

[To accompany S. 2393]

The Committee on the Judiciary, to whom was referred the bill (S. 2393) for the relief of the State of New Hampshire and the town of New Boston, N. H., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to provide for payment of the sum of \$2,295.96 to the State of New Hampshire, and to the town of New Boston, N. H., the sum of \$2,295.96, in full satisfaction of their respective claims for reimbursement of expenditures made in combating a forest fire on a United States Army bombing range located near the town of New Boston, N. H., on May 2, 1942.

STATEMENT

The records of the Department of the Army disclose that on May 2, 1942, a forest fire broke out on the Manchester Air Base bombing range, which is located partly in New Boston, partly in Amherst and partly in Mont Vernon, N. H., and which comprises approximately 2,780 acres of land. The fire soon got out of control, and the Army requested the fire warden at New Boston for assistance in fighting the fire. Fire fighters were sent from New Boston and 12 other New Hampshire towns and the fire was extinguished on May 7, 1942. New Boston incurred total expenses in the sum of \$2,268.09 in fighting the fire, and the other 12 towns incurred aggregate expenses amounting to \$2,323.83. New Boston reimbursed the other 12 towns for the expenses incurred by them, and subsequently the State of New Hampshire reimbursed New Boston in the amount of \$2,295.96,

or one-half of the total expenses incurred by New Boston and the 12 other New Hampshire towns.

On February 26, 1945, the War Department disapproved a claim filed by the State of New Hampshire and the town of New Boston in the amount of \$4,591.92, the total expenses incurred in fighting the forest fire, for the reason that there was no statute or appropriation available under which this sum could be paid. Thereafter, on July 11, 1945, the claim was transmitted to the General Accounting Office for consideration. The Comptroller General, on June 20, 1946, disapproved the claim on the ground that there was no appropriation available for payment of the claim.

The Department of the Army, in its report submitted in connection with the instant bill, states in part as follows:

Inasmuch as the evidence in this case fairly establishes that this forest fire was caused by military personnel or civilian employees of the United States, and as the town of New Boston and other nearby towns in New Hampshire were requested by the military authorities at the Manchester Air Base Bombing Range to assist in putting the fire out, and as the total expense of \$4,591.92 incurred in fighting the fire has been borne equally by the State of New Hampshire and the town of New Boston, it is the view of the Department of the Army that said claimants are equitably entitled to be reimbursed for such expense. The Department, accordingly, has no objection to the enactment of this bill.

The Department of Justice, in a report submitted to the committee, advises that it concurs in the view of the Department of the Army.

The committee is in agreement with the reports of the Departments of the Army and Justice, and therefore recommends favorable consideration of this bill, S. 2393.

Attached hereto and made a part of this report are the reports of the Department of Justice and the Department of the Army submitted in connection with this bill.

DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, May 8, 1952.

HON. PAT McCARRAN,  
*Chairman, Committee on the Judiciary,*  
*United States Senate, Washington, D. C.:*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 2393) for the relief of the State of New Hampshire and the town of New Boston, N. H.

The bill would provide for payment of the sum of \$2,295.96 to the State of New Hampshire and a like sum to the town of New Boston, N. H., in full satisfaction of their respective claims for reimbursement of expenditures made in combating a forest fire on a United States Army bombing range located near the town of New Boston on May 2, 1942.

In compliance with your request, a report was obtained from the Department of the Army concerning this legislation. That report, which is enclosed, sets out in detail the facts relating to this claim. Briefly stated, it appears that on May 2, 1942, a forest fire broke out on the Manchester Air Base Bombing Range, which is located partly in New Boston, partly in Amherst, and partly in Mont Vernon, N. H., and which comprises approximately 2,780 acres of land. The fire soon got out of control and the Army requested the fire warden at New Boston for assistance in fighting the fire. Fire fighters were sent from New Boston and 12 other New Hampshire towns, and the fire was extinguished on May 7, 1942. New Boston incurred total expenses in the sum of \$2,268.09 in fighting the fire and the other 12 towns incurred aggregate expenses amounting to \$2,323.83. New Boston reimbursed the other 12 towns for the expenses incurred by them and subsequently the State of New Hampshire reimbursed New Boston in the amount of \$2,295.96, or one-half of the total expenses incurred by New Boston and the 12 other New Hampshire towns.

A claim filed by the State of New Hampshire and New Boston in the amount of \$4,591.92, the total expenses incurred in fighting the forest fire, was neces-

early disapproved by the War Department on February 26, 1945, for the reason that there was no statute or appropriation available under which it could be paid. The Department of the Army states that as the evidence in this case fairly establishes that the fire was caused by military personnel or civilian employees of the United States, and as the various nearby towns in New Hampshire were requested by the Army to assist in putting the fire out, and since the total expense incurred in fighting the fire has been borne equally by the State of New Hampshire and New Boston, it is the view of the Department of the Army that claimants are equitably entitled to reimbursement for such expense and, accordingly, it has no objection to the enactment of the bill.

The Department of Justice concurs in the view of the Department of the Army. The Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Sincerely,

A. DEVITT VANECH,  
*Deputy Attorney General.*

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DEPARTMENT OF THE ARMY,  
*Washington, April 23, 1952.*

The honorable the ATTORNEY GENERAL,  
*Washington, D. C.*

DEAR MR. ATTORNEY GENERAL: Reference is made to your letter with which you enclosed a copy of S. 2393, Eighty-second Congress, a bill for the relief of the State of New Hampshire and the town of New Boston, N. H. You state that the Senate Committee on the Judiciary has requested the Department of Justice to submit a report on this bill and has advised that if reports are necessary from other sources they will be secured by your Department and submitted along with your report to the committee. You, therefore, request the comments of the Department of the Army on S. 2393.

This bill provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the State of New Hampshire the sum of \$2,295.96, and to the town of New Boston, New Hampshire, the sum of \$2,295.96, in full satisfaction of their respective claims for reimbursement of expenditures made by such State and such town in combating a forest fire on a United States Army bombing range located near the town of New Boston, New Hampshire, on May 2, 1942, and for three days thereafter."

The records of the Department of the Army show that on May 2, 1942, at about 11:45 a. m., a forest-fire-lookout watchman, employed by the State of New Hampshire, spotted a forest fire on the Manchester Air Base Bombing Range. This range was located partly in the town of New Boston, partly in the town of Amherst, and partly in the town of Mount Vernon, Hillsboro County, State of New Hampshire, and comprised a tract of approximately 2,780 acres of land. The fire watchman immediately reported the fire to the fire warden at New Boston, N. H., who in turn notified Staff Sgt. Oliver E. Andrews, who was in charge of a group of men engaged in maintenance work on the bombing range, and requested him to make an investigation of the fire and ascertain its extent. Sergeant Andrews, accompanied by several enlisted men, thereupon started toward the scene of the fire. While en route to the fire they met a group of men from the Thirtieth Signal Company, United States Army, who had been working near the point where the fire was first observed, and they told Sergeant Andrews that the fire had obtained such headway that it was out of control and that assistance was needed. Sergeant Andrews immediately informed the fire warden at New Boston and also the headquarters at Grenier Field, Manchester, N. H., of the situation and requested assistance in fighting the fire.

Fire fighters were sent from the town of New Boston and 12 other New Hampshire towns to fight the fire. Although strenuous effort was made to put the fire out, it was not finally extinguished until about 12:30 a. m. on May 7, 1942. Each town paid the wages of its fire fighters and the other expenses incurred by it in fighting the fire, including transportation expenses and the cost of furnishing lunches to the fire fighters. The total expenses incurred by the town of New Boston in fighting this fire amounted to the sum of \$2,268.09, and the aggregate expenses incurred by the other 12 towns in fighting said fire amounted to the sum of \$2,323.83, making a grand total of \$4,591.92. The town of New Boston reimbursed the other 12 towns for the expenses incurred by them in fighting this fire (as shown by true copies of receipted vouchers filed with the Department of

the Army). It appears that subsequently the State of New Hampshire reimbursed the town of New Boston in the amount of \$2,295.96 (one-half of the total expenses incurred by said town and the 12 other New Hampshire towns that assisted in fighting this forest fire), in accordance with the laws of the State of New Hampshire providing for such reimbursement (Revised Statutes of New Hampshire (1942), ch. 233).

This forest fire originated in the northern part of the bombing range at a point near which enlisted men of the Thirtieth Signal Company had been constructing a telephone line. The fire spread in a northerly direction about three-fourths of a mile beyond the northern boundary of the range. It burned over about 1,000 acres of the bombing range and about 800 acres beyond the northern boundary of the range and in the town of New Boston. It also appears that employees of the Works Projects Administration had been engaged in building a firebreak and burning brush in the general vicinity of the point of the origin of the fire.

On July 28, 1942, the Board of Selectmen of the Town of New Boston duly authorized the State of New Hampshire to present a claim against the United States for the total expenses incurred by said town in extinguishing the aforesaid forest fire "with the understanding that any sum thus recovered will be shared pro rata between the town of New Boston and the State of New Hampshire." Thereafter on December 10, 1942, the State of New Hampshire and the town of New Boston filed a joint claim with the War Department (now Department of the Army) for the sum of \$4,591.92 (the total expenses incurred in fighting said forest fire).

A board of officers was convened at Grenier Field, N. H., on December 28, 1942, to investigate the cause of this fire and the total expenses incurred by the town of New Boston in extinguishing it. After a careful investigation the board found that the total expenses incurred by the town of New Boston in fighting the fire amounted to the sum of \$4,591.92 (including the expenses incurred by the other 12 towns in fighting said fire). With respect to the cause of the fire the board stated in its report that—

"\* \* \* it is evident that the fire was caused by military personnel unknown, and this board recommends that the claim be allowed by proper authority."

The report of the board of officers was duly approved by the commanding officer, Grenier Field, on February 10, 1943, and by the commanding general, First Service Command, Boston, Mass., on March 18, 1943. The claim of the State of New Hampshire and the town of New Boston, however, was necessarily disapproved by the War Department on February 26, 1945, for the reason that there was no statute or appropriation available to the Department under which it could be paid. Thereafter on July 11, 1945, the record in connection with the claim was transmitted to the General Accounting Office for its consideration of said claim. The Comptroller General in a letter to the State of New Hampshire, dated June 20, 1946 (Claim No. 08826 (25)), advised that no part of the claim could be paid administratively. The full text of said letter is as follows:

"Your claim in the amount of \$4,591.92 to cover expense of suppression of fire at New Boston, N. H., on May 2, 1942, alleged to have been started by a United States Army crew engaged in telephone construction, has been carefully examined and it is found that no part thereof may be allowed for the reasons hereinafter stated.

"You are advised that as there is no appropriation available for its payment this office cannot make settlement thereof unless and until an appropriation therefor has been made by Congress.

"I therefore certify that no balance is found due you from the United States."

Inasmuch as the evidence in this case fairly establishes that this forest fire was caused by military personnel or civilian employees of the United States and as the town of New Boston and other nearby towns in New Hampshire were requested by the military authorities at the Manchester Air Base Bombing Range to assist in putting the fire out, and as the total expense of \$4,591.92, incurred in fighting the fire, has been born equally by the State of New Hampshire and the town of New Boston, it is the view of the Department of the Army that said claimants are equitably entitled to be reimbursed for such expense. The Department, accordingly, has no objection to the enactment of this bill.

For the purpose of accuracy it is recommended that, if this bill is favorably considered by the Congress, the word "three" on line 1, page 2 of the bill, be changed to "five".

Sincerely yours,

FRANK PACE, Jr.,  
Secretary of the Army.